

## **REMARKS**

### **I. Introduction**

With the cancellation herein without prejudice of claims 33 and 37, claims 30 to 32, 34 to 36, and 38 to 58 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants note with appreciation the acknowledgment of the claim for foreign priority and the indication that all certified copies of the priority documents have been received.

### **II. Office Action Summary**

As an initial matter, it is noted that claims 37 to 58 were rejected under 35 U.S.C. § 112 but not §§ 102 or 103. Since the § 112 rejections were obviated below, it is respectfully submitted that claims 37 to 58 include allowable subject matter, since the body of the Office Action does not include any other rejection of claims 37 to 58.

### **III. Objection to the Drawings Under 37 C.F.R. § 1.83(b)**

Figures 5 and 10 were objected to under 37 C.F.R. § 1.83(b), the Patent Office contending that the Figures are incomplete.

The Office Action's reference to 37 C.F.R. § 1.83(b) is not understood and is apparently entirely misplaced. Figures 5 and 10 show a flowchart illustrating a measuring sequence and an error minimization computation, respectively. It is not a drawing of an improvement of an old machine which 37 C.F.R. § 1.83(b) refers to.

In addition, the description of Figures 5 and 10 in the specification provides sufficient detail for one of ordinary skill the art to understand the Figures.

In view of all of the foregoing, withdrawal of this objection is respectfully requested.

### **IV. Rejection of Claim 58 Under 35 U.S.C. § 101**

Claim 58 was rejected under 35 U.S.C. § 101, the Patent Office contending that the claim is directed to non-statutory subject matter.

In response, claim 58 has been amended herein without prejudice to refer to a *hardware* computer-readable storage medium containing a program for carrying out a method for performing an analysis of at least two material samples disposed on a sample plate. Thus, the program is tangibly embodied on a computer readable storage medium and, when the program is executed, it performs the steps of an invention.

In addition, claim 58 is a device claim, not a method claim as indicated by the Examiner on page 4, and thus, the rejection is entirely improper.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

#### **V. Rejection of Claims 30 to 58 Under 35 U.S.C. § 112**

Claims 30 to 58 were rejected under 35 U.S.C. § 112, second paragraph, the Patent Office contending that the claims are indefinite.

In response, claim 30 has been amended herein without prejudice to clarify that the prestressing refers to the contact of the measuring wires against the contact surfaces of the sample plate.

Further, with regards to claims 48 and 58, the specification makes clear that fit values represent dimensionings of the components of the circuit equivalents from which the measured impedance spectrum may be simulated. The fit values are obtained from the evaluation software which includes a fit functionality for computing theoretical impedance spectra for the individual samples, the computation being made based on a circuit equivalent that includes at least one virtual or real electronic component (see, *i.e.*, page 5, lines 7 to 11 and page 7, lines 2 to 9). One skilled in the art would understand from the Specification how fit values are used to determine an evaluation variable.

Further, with regards to claim 50, the specification makes clear that the maximum imaginary impedance is ascertained from the measured data for the respective material samples, and that based on the starting values R1\_START and C1\_START, a theoretical impedance spectrum is calculated, and then a difference spectrum between the theoretical impedance spectrum and the measured impedance spectrum is calculated, and from this difference spectrum, in turn, the maximum of the imaginary impedance is ascertained (see, *i.e.*, page 25, lines 12 to

15 and page 26, lines 4 to 10). One skilled in the art would understand from the Specification how imaginary impedance is measured.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

#### **VI. Rejection of Claims 30 to 34 Under 35 U.S.C. § 102(b)**

Claims 30 to 34 were rejected under 35 U.S.C. § 102(b). The Patent Office has contended that these claims are anticipated by U.S. Patent Application Publication No. 2003/0122567 ("Miller et al."). It is respectfully submitted that Miller et al. do not anticipate the present claims for at least the following reasons.

Claim 30 is directed to a device for an analysis of at least two material samples disposed on a sample plate. Claim 30 has been amended herein without prejudice to include the feature of the measuring head connected to a gas supply unit and the feature that the measuring head includes a gas chamber formed by a substantially bell-shaped distributing device for applying gas to the sample plate, wherein the bell-shaped distributing device is connected to the gas supply unit. Support for these amendment may be found, for example, in claims 33 and 37 as originally presented.

Miller et al. generally disclose a probe card cooling assembly, including a cooling package which contains die cooled by direct cooling. Miller et al. do not disclose, or even suggest, all of the features of claim 30. Specifically, nowhere do Miller et al. disclose the features of a gas chamber formed by a substantially bell-shaped distributing device for applying gas to the sample plate, wherein the bell-shaped distributing device is connected to the gas supply unit.

Furthermore, it is noted that the Office Action did not reject original claim 37, the subject matter of which is now included in claim 30. Since original claim 37 was apparently not considered to be anticipated by Miller et al., independent claim 30 should accordingly not be considered to be anticipated by Miller et al. due to its incorporation of the subject matter from claim 37.

Accordingly, it is respectfully submitted that Miller et al. do not anticipate claim 30. As for claims 31, 32, and 34 (claim 33 having been cancelled) which ultimately depend from claim 30, and therefore include all of the features recited in claim 30, it is respectfully submitted that Miller et al. do not anticipate these

dependent claims for at least the same reasons set forth above in support of the patentability of claim 30.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

**VII. Rejection of Claim 35 and 36 Under 35 U.S.C. § 103(a)**

Claims 35 and 36 were rejected under 35 U.S.C. § 103(a). The Patent Office has contended that these claim are unpatentable over Miller et al. It is respectfully submitted that Miller et al. does not render unpatentable these claim for at least the following reasons.

Claims 35 and 36 depend from claim 30 and therefore include all of the features included in claim 30. As explained above, Miller et al. do not disclose, or even suggest, all of the features included in claim 30. As such, it is respectfully submitted that Miller et al. does not render unpatentable claims 35 and 36, which depend from claim 30.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

**VIII. Conclusion**

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

Dated: 3/25/10

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